

REMARKS

The Applicants' counsel expresses appreciation for the opportunity to engage in a telephonic interview with Examiner James R. Brittain on April 21, 2003. During the interview, the Seron, Spina, and Weil references were discussed, along with the presently existing independent claims and two possible additional independent claims, namely a kit claim, and a method claim, which the Examiner agreed to review, subject to a possible restriction requirement and/or follow up search.

During the interview, the Applicants' counsel explained that the Weil reference fails to teach the concept of an eyeglass retainer (or a method of use relating thereto) that both (i) receives and retains an earpiece within a hollow chamber; and (ii) allows an earpiece to be moved through an opening in the chamber in order to be connected at the temple of the eyeglass. The Examiner agreed to review and consider the new claims to be submitted and the specific language of the amendments submitted herein.

Claims 1-20 are pending. Claims 14-16 are allowed. Claims 11, 12, and 18 are objected to. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks.

Rejection Under 35 U.S.C. § 112

The foregoing amendments have resolved the Examiner's rejections under Section 112.

Rejections Under 35 U.S.C. § 102 and § 103

The Examiner rejected claims 1-10, 13, 17, and 19-20 citing the Weil reference (claims 8-10, 13, and 17), the Spina reference combined with the Seron reference (claims 1, 2, 4-7), or the Spina reference combined with the Weil reference (claims 1-3, 5-7). Particularly as amended

and in light of the remarks herein, the claims are currently in condition for allowance and the Applicants respectfully request reconsideration of the claims.

The applicants' unique and novel dual use eyeglass retainer is a significant breakthrough because it enables both retention of eyeglass earpieces within a chamber, as well as the ability to move the temples of the eyeglass through the chamber to be retained in respective openings, among other reasons. Claim 1 relates to a dual use eyeglass retainer wherein the earpiece of the eyeglass is selectively received and retained within a chamber.

None of the cited references teach or suggest this combination. The Applicants' use of a chamber that receives and retains the earpiece and has an opening therethrough distinguishes the present invention from the Weil reference. The Weil patent discloses various "gripper members" (see e.g., numeral 14, Fig. 4), none of which both (i) retain an earpiece therein and (ii) retain a temple, as defined by applicants, therethrough. Weil's gripper members retain earpieces within openings in the gripper members, but do not retain temples, as defined by applicants, within the openings. None of the Weil connectors connects to a temple of an eyeglass, as defined by the present claims. Instead, the Weil connectors connect to respective earpieces.

Although the gripper member of Weil's Figure 4 grips an earpiece, it has no holes therein that could receive the earpiece or temple therethrough. Moreover, the connectors of Weil's Figures 7-12 have openings (e.g., opening 23) therethrough which receive the earpiece, but fail to disclose a chamber receiving and retaining an earpiece therein. The earpieces of Figures 7-12 are retained by the openings, not by a chamber. Finally, the openings in Weil's Figures 7-12 are too thin to have been designed to receive the thick earpiece featured in Weil Figure 4 (hole 23 has "practically zero diameter externally of the tube" Column 2, line 52).

Consequently, Weil teaches away from the use of an eyeglass retainer having (i) a chamber configured to receive and retain an earpiece of an eyeglass and (ii) an opening configured to receive and retain a temple of an eyeglass.

Similarly, with respect to claim 8, the Weil patent does not disclose or obviate an eyeglass retainer wherein "each of the first and second connectors is configured to selectively couple to one of (i) a temple of an eyeglass; and (ii) an earpiece of said eyeglass." With respect to claim 10, the Weil patent does not disclose a gripping member that both receives and retains an eyeglass earpiece therein and has openings therethrough, as claimed in claim 10.


With respect to claim 17, the Weil patent does not disclose a gripping member having "a single expandable opening extending through the tubular wall." The applicants' single opening is a highly efficient and effective design because it overcomes a significant challenge within the art, namely retention of temples or earpieces, with only a single opening.

CONCLUSION

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is cordially requested to contact the undersigned attorney.

Dated this 21st day of April, 2002.

Respectfully submitted,


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